TC Heartland v. Kraft Foods

Banner & Witcoff offers the following content as a resource to help clients understand and prepare for the potential impact of this case:

Kraft Foods Group Brands LLC filed suit against TC Heartland LLC in the U.S. District Court for the District of Delaware, alleging that Heartland's liquid water enhancer products infringe three of Kraft's patents. Heartland moved to transfer venue to the U.S. District Court for the Southern District of Indiana, where Heartland is headquartered. Heartland argued that Delaware was not a proper venue under § 1400(b) because the company was formed under Indiana law and has no physical presence in Delaware. The district court denied the motion to transfer. The Federal Circuit denied a petition for writ of mandamus, relying on its earlier decision in VE Holding Corp. v. Johnson Gas Appliance Co. , 917 F.2d 1574 (Fed. Cir. 1990), holding that a defendant's residency under § 1400(b) is determined using the definition provided in § 1391(c).

On March 27, 2017, the Supreme Court heard arguments in TC Heartland LLC v. Kraft Foods Group Brands LLC. The specific question at issue is "[w]hether the patent venue statute, 28 U.S.C. § 1400(b), which provides that patent infringement actions 'may be brought in the judicial district where the defendant resides[,]' is the sole and exclusive provision governing venue in patent infringement actions and is not to be supplemented by the statute governing '[v]enue generally,' 28 U.S.C. § 1391, which has long contained a subsection (c) that, where applicable, deems a corporate entity to reside in multiple judicial districts."

The Supreme Court case attracted a significant number of amicus curiae briefs offering viewpoints on the impact of VE Holding on patent litigants and businesses, including notably the current prevalence of patent infringement actions filed in the U.S. District Court for the Eastern District of Texas. However, during argument the Justices expressed a general unwillingness to delve into policy considerations and, instead, seemed intent to resolve the question presented purely as a matter of statutory construction. Justice Breyer commented that he didn't know whether the concentration of cases in East Texas was "good, bad or indifferent."

Heartland was questioned on whether the Supreme Court's ruling in Fourco Glass Co. v. Transmirra Products Corp., 353 U.S. 222 (1957), which held that § 1391(c) had no applicability to the question of venue in patent infringement actions, was controlling because the defendant in the case at issue is a limited liability company (LLC) rather than a corporation. Heartland urged that the principles announced in Fourco Glass still apply, and that the residency of an LLC can be resolved by looking to state law. Justice Ginsburg commented that Heartland was advocating for an unusually narrow definition of venue not found in other areas of law.

The Justices asked Kraft whether § 1400(b) is rendered superfluous by the Federal Circuit's

interpretation of § 1391(c). Kraft argued that 1988 amendments were intended to significantly expand venue, and that it was impractical for Congress to amend every instance in which a specific venue statute was implicated. Kraft also pointed out that § 1400(b) still could apply to defendants who are natural persons. Chief Justice Roberts questioned whether the 1988 amendments were actually intended to overrule Fourco Glass. Justice Kagan also appeared skeptical, questioning whether "for 30 years the Federal Circuit has been ignoring our decision."

On May 22, 2017, the Supreme Court held that "a domestic corporation 'resides' only in its State of incorporation for purposes of the patent venue statute." The decision reversed the Federal Circuit and confirmed decades-old Supreme Court precedent that the patent venue statute, § 1400(b), does not incorporate a broader definition of residency found in the general venue statute, § 1391(c).

Writing for a unanimous Court with Justice Gorsuch taking no part in consideration or decision of the case, Justice Thomas explained that "[t]he current version of § 1391 does not contain any indication that Congress intended to alter the meaning of § 1400(b) as interpreted in Fourco."

While the Court's ruling presumably will result in the case below being transferred out of the U.S. District Court for the District of Delaware, the broader impact of the decision actually could lead to a higher concentration of patent infringement actions in Delaware, where many businesses are incorporated.

IMPORTANT DATES

- May 22, 2017 – Supreme Court issues decision
- March 27, 2017 – Supreme Court hears arguments
- December 14, 2016 – Supreme Court grants TC Heartland's petition for a writ of certiorari
- September 12, 2016 – TC Heartland files petition for a writ of certiorari with Supreme Court
- April 29, 2016 – Federal Circuit issues decision

COURT DOCUMENTS

- Supreme Court decision
- Supreme Court oral arguments
- TC Heartland's petition to the Supreme Court
- Federal Circuit decision

MEDIA

Banner & Witcoff attorneys are available to answer questions and discuss this case. Media inquiries should be directed to Amanda Robert (312) 463-5465 or arobert@bannerwitcoff.com.